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EXAMINER

NGUYEN, THU V

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JAMES THOMPSON, KATHLEEN E. McCLELLAND,
and BRETT B. STEWART

Appeal 2012-011764
Application 09/767,374
Technology Center 2400

Before MAHSHID D. SAADAT, JASON V. MORGAN,
and JOHN G. NEW, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 146-166, 168-172, 174-177, 179-221, 256-274, 276-279, 286-301, 303-311. Claims 1-145, 167, 173, 178, 222-255, 275, 280-285, and 302 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Introduction

Appellants' invention is directed to a system and method for providing access and/or roaming features on a distributed wireless network system to enable multiple wireless service providers (WSPs) to use or provide services on a common wireless network infrastructure (*see* Spec. 7:4-15). Claim 146 is illustrative of the invention and reads as follows:

146. A method for providing access to a network system, the method comprising:

- a first access point coupled to the network receiving system identification information from a portable wireless computing device in a wireless manner, wherein the system identification information includes an identifier for a first virtual local area network (VLAN) from among a plurality of possible VLANs and wherein each of at least two of the plurality of possible VLANs is dedicated to a different respective network service provider from among a plurality of network service providers;

- the first access point determining the first VLAN of the plurality of possible VLANs for the portable wireless computing device after receiving the system identification information;

- the first access point determining a geographic location of the portable wireless computing device;

- the first access point selectively providing network access to the portable wireless computing device based on the received system identification information and the determined geographic location of the portable wireless computing device, the network access provided using the determined first VLAN;

- the first access point receiving data from the portable wireless computing device; and

- the first access point providing the received data to a first network service provider based on one or more attributes of the determined first VLAN.

The Examiner's Rejections

Claims 146-166, 168-172, 174-177, 179-190, 192-210, 212-221, 256-274, 276-279, and 286-301 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Meier (US 6,847,620 B1), Garrett (US 2002/0019875 A1), and Short (US 7,197,556 B1).

Claim 191 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Meier, Garrett, and Short, and further in view of IEEE Std. 802.11-1997 (hereinafter IEEE).

Claim 211 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Meier, Garrett, and Short, and further in view of Official Notice.

Claims 302-311 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Meier, Garrett, and Short, and further in view of Sheynblat (US 6,677,894 B2).

Appellants' Contentions

Appellants contend that the Examiner erred in rejecting claim 146 as obvious over Meier, Garrett, and Short because Short does not teach or suggest providing network access based on “system identification information” related to the portable wireless computing devices (App. Br. 13). Appellants further argue that Short teaches away from the disputed claim limitation because:

Short does not provide network access based on “system identification information” of any portable wireless computing device. In addition, *Short* does not describe providing network access based on the “determined geographic location of the portable wireless computing device.” Instead, *Short* discloses an initial installation configuration process that grants network

access to a specific location, such as a specific port in a hotel room.

(*Id.*). Specifically, Appellants assert that the cited portion of Short, in Column 9, discusses granting access to specific ports that are tied to particular locations regardless of the identification or location of any computing device (App. Br. 13-14).

Regarding claims 302-311, Appellants rely on the same arguments presented for claim 146 and further contend that while Sheynblat teaches using “mobile GPS receivers,” Short “teaches away from location based identification tied to a specific user or host residing at a location” (App. Br. 15). Additionally, Appellants contend that modifying Short to use GPS data changes the Short’s principle of operation which is based on configuring at the initial installation (*id.*).

Appellants argue the patentability of the remaining claims by relying on the same reasons presented for claim 146 or their dependency on their respective base claims, allowing those claim to fall with claim 146 (App. Br. 14-16).

ISSUES

Has the Examiner erred in rejecting the claims because: (i) Short does not teach “the first access point selectively providing network access to the portable wireless computing device based on the received system identification information and the determined geographic location of the portable wireless computing device,” as recited in claim 146; and (ii) Short teaches away from providing network access to a device based its system identification information and its geographic location?

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' arguments that the Examiner has erred. We disagree with Appellants' conclusions. We concur with the findings and reasons set forth by the Examiner in the action from which this appeal is taken and the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief. However, we highlight and address specific findings and arguments regarding claim 146 for emphasis as follows.

We specifically find that the Examiner has properly relied on columns 7 and 8 of Short for disclosing Virtual Local Area Network (VLAN) tags sent within packets which are also used to determine the location of the user device and provide network access (Ans. 37). We disagree with Appellants that the configuration disclosed in Short "grants network access to a specific location, such as a specific port in a hotel room" instead of "a specific user or host residing at the location" (Reply Br. 2). As explained by the Examiner (Ans. 38), the IP packets sent by the wireless device have a VLAN tag, which is assigned to an entity or port having an assigned location, (*see also* Short, col. 9, ll. 39-50), and this VLAN tag is used for providing access by identifying the system and determining the geographical location of the device.

Additionally, we find that the Examiner's discussion of Appellants' disclosure in paragraphs 36 and 90 (published application US 2002/0022483 A1) indicates that the geographical location is determined based on the access point which the user is associated with (Ans. 38). Similarly, the Examiner properly relies on the disclosure of Short in column 8 for teaching that the network access is determined based on the VLAN address and

recognizing the host while the access point determines location of the device by recognizing the port from which the packets were sent (*id.*). Therefore, we disagree with Appellants that the claimed subject matter is not taught or suggested by Short because the reference does not provide network access to a portable device based on its system identification information and geographical location (Reply Br. 3). As such, we concur with the Examiner's conclusion that Short does not teach away from the combination and would have suggested the disputed claimed limitations to one of ordinary skill in the art.

With respect to claims 302-311, we also disagree with Appellants' conclusion for the reasons stated by the Examiner (*see* Ans. 39-40).

CONCLUSION

The Examiner has not erred in rejecting the claims because: (i) Short teaches or suggests the disputed claim features and (ii) Appellants have not provided persuasive arguments to show that Short teaches away from the combination.

DECISION

The Examiner's decision rejecting claims 146-166, 168-172, 174-177, 179-221, 256-274, 276-279, 286-301, 303-311 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2012-011764
Application 09/767,374

AFFIRMED

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